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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/624,810

07/24/2000

Robert William Bruce

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06/18/2004

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EXAMINER

ZERVIGON, RUDY

ART UNIT

PAPER NUMBER

1763

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/624,810

Applicant(s)

BRUCE ET AL.

Examiner

Rudy Zervigon

Art Unit

1763

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- b) ☐ they raise the issue of new matter (see Note below);
- c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-10.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Rudy Zervigon
6/10/04

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues (page 3) "Therefore, the Examiner's argument is that Dietrich discloses projecting the electron beams 17 and 18 at a point where Dietrich's crucible 6 contacts the coating material 8. However, nowhere does Dietrich disclose this, and therefore Dietrich does not anticipate Applicants' invention recited in independent claims 1 and 6." The Examiner again disagrees, and defers Applicant to the Examiner's clearly stated final rejection (page 2-3). Further, Applicant's interpretation of "interface" with respect to Dietrich's locust of points (26,27; Figure 3) remains consistent with Dietrich et al who teaches the capability (column 2, lines 53-58; "despite the force urging them radially toward the outside"; column 3, lines 25-30) of projecting each electron beam onto a surface portion of the crucible contiguous with the "bath of molten evaporite" (column 2, lines 40-55), as was stated in the Final Rejection. Applicant further argues that Dietrich's "radial outward" direction is in the direction of Dietrich's arrows 20,21. The Examiner disagrees. Dietrich's "radially outward" description is with reference to the outer bound of Dietrich's molten bath where Applicant's "interface" resides. Applicant states that Dietrich's apparatus cannot project Dietrich's electron beams at Applicant's "interface" because Dietrich states "In electron beam melting units, it is important that the electron beam does not strike beside the material to be melted.", however, with respect to Dietrich's apparatus, Dietrich's statement does not directly translate to Dietrich's apparatus. Dietrich's "material to be melted" is his bath 9, how can you not strike "beside the material"? To the contrary, as is further demonstrated by Dietrich that his electron beams can strike the "interface", Dietrich states "Thus, for example, the evaporation energy sources of the electron beam can be moved over the surface of the material to be evaporated such that as even a surface temperature as possible is reached on a specific surface, and therefore, a constant evaporation rate is maintained." (column 1, lines 18-25).

